

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

TIMOTHY ROBERT McCLAIN,
Defendant.

Criminal No. 1:12-cr-383-11

Hon. Liam O'Grady

CONSENT ORDER OF FORFEITURE

WHEREAS, defendant Timothy Robert McClain has pleaded guilty to a criminal information, charging him with conspiracy to intentionally cause damage to a protected computer, in violation of 18 U.S.C. § 371, and pursuant to the defendant's written plea agreement, the defendant has agreed to forfeit all of his interests in the property that is the subject of this order of forfeiture and to the entry of an order of forfeiture concerning such property;

AND WHEREAS, the defendant agrees to waive the provisions of Federal Rules of Criminal Procedure 11(b)(1)(J), 32.2(a), 32.2 (b)(4) and 43(a) with respect to discussion of forfeiture at the plea colloquy, notice of forfeiture in the charging instrument, and announcement of the forfeiture at sentencing and incorporation of the forfeiture in the judgment;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, THAT:

1. The following property is forfeited to the United States as property that was used or intended to be used to commit or to facilitate the commission of such violation, pursuant to 18 U.S.C. § 2428, or as a substitute therefor:

- a. Generic Black Desktop Computer Console (No SN#)
- b. Seagate Hard Disk Drive (SN: 5JVOZDT9) Labeled "Win 7 Backup 05"

- c. Kingston 4GB Thumbdrive (SN: DT101C); PNY 2GB Thumbdrive (70006095); Cruzer 8GB Thumbdrive (SN: SDC26-819288); DataTraveler 512MB Thumbdrive (SN: 05360-018); Sandisk Cruzer 256MB Thumbdrive (SN: AR0412CZC); Kingston 4GB SD Card (SN: 4017494); Micro SD Card with Case (No SN#)
- d. Dell Inspiron 6000 Laptop (SN: 0107898349890528)
- e. Micro Center Thumbdrive (SN: NMB780274)
- f. Super Flash Drive 128MB Thumbdrive (Labeled "PHYS028"); Spitzer Space Telescope Thumbdrive (No SN#)

2. The defendant has an interest in the asset listed above.

3. The Attorney General or a designee is hereby authorized to seize, inventory, and otherwise maintain custody and control of the property, whether held by the defendant or by a third party, and to conduct any discovery proper in identifying, locating or disposing of the property subject to forfeiture pursuant to Federal Rule of Criminal Procedure 32.2(b)(3).

4. This Consent Order of Forfeiture is final as to the defendant but preliminary as to third parties who may have an interest in specific property, pursuant to Federal Rule of Criminal Procedure 32.2(b)(4)(A).

5. The United States shall, to the extent practicable, provide direct written notice to any persons known to have alleged an interest in the seized property, and shall publish notice of this order in accordance with Federal Rule of Criminal Procedure 32.2(b)(6).

6. Any person, other than the defendant, asserting any legal interest in the property may, within thirty (30) days of the final publication of notice or his receipt of notice, whichever is earlier, petition the court for a hearing to adjudicate the validity of the alleged interest in the property pursuant to 21 U.S.C. § 853(n) and Federal Rule of Criminal Procedure 32.2(c)(1).

7. If no third party files a timely petition or if this Court denies and/or dismisses all third party petitions timely filed, this Consent Order shall become the Final Order of Forfeiture, and the United States shall have clear title to the property and may warrant good title to any

subsequent purchaser or transferee pursuant to 21 U.S.C. § 853(n)(7) and Federal Rule of Criminal Procedure 32.2(c)(2).

8. If this Court grants any third party rights, a Final Order of Forfeiture that amends this Consent Order as necessary to account for said third party rights, shall be entered pursuant to 21 U.S.C. § 853(n)(6) and Federal Rule of Criminal Procedure 32.2(c)(2).


Date: 7/23, 2014
Alexandria, Virginia

Liam O'Grady
The Honorable Liam O'Grady
United States District Judge

WE ASK FOR THIS:


United States of America

Dana J. Boente
United States Attorney

By: 
Jay V. Prabhu
Alexander T.H. Nguyen
Assistant United States Attorneys

Richard D. Green
Trial Attorney, U.S. Department of Justice
Computer Crime & Intellectual Property Section


Timothy Robert McClain, Defendant


Gretchen Lynch Taylor, Esq.